

Introduced by Senator Denham

February 6, 2003

An act to amend, add, and repeal Section 48204 of the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as introduced, Denham. Education: school attendance requirements.

Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements, including that one or both of the parents or legal guardians of the pupil is employed within the boundaries of the school district. Existing law requires the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses. Existing law makes those provisions permitting school district attendance based upon employment within the boundaries of a school district effective until July 1, 2003.

This bill instead would make those provisions inoperative on and after July 1, 2009, and would repeal the provisions on January 1, 2010. By extending the requirement for a school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, this bill imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48204 is added to the Education Code,
2 to read:

3 48204. Notwithstanding Section 48200, a pupil is deemed to
4 have complied with the residency requirements for school
5 attendance in a school district, if or she is any of the following:

6 (a) A pupil placed within the boundaries of that school district
7 in a regularly established licensed children's institution, or a
8 licensed foster home, or a family home pursuant to a commitment
9 or placement under Chapter 2 (commencing with Section 200) of
10 Part 1 of Division 2 of the Welfare and Institutions Code.

11 An agency placing a pupil in a home or institution described in
12 this subdivision shall provide evidence to the school that the
13 placement or commitment is pursuant to law.

14 (b) A pupil for whom interdistrict attendance has been
15 approved pursuant to Chapter 5 (commencing with Section 46600)
16 of Part 26.

17 (c) A pupil whose residence is located within the boundaries of
18 that school district and whose parent or legal guardian is relieved
19 of responsibility, control, and authority through emancipation.

20 (d) A pupil who lives in the home of a caregiving adult that is
21 located within the boundaries of that school district. Execution of
22 an affidavit under penalty of perjury pursuant to Part 1.5
23 (commencing with Section 6550) of Division 11 of the Family
24 Code by the caregiving adult is a sufficient basis for a
25 determination that the pupil lives in the caregiver's home, unless



1 the school district determines from actual facts that the pupil is not
2 living in the caregiver's home.

3 (e) A pupil residing in a state hospital located within the
4 boundaries of that school district.

5 (f) An elementary school pupil, one or both of whose parents,
6 or whose legal guardian, is employed within the boundaries of that
7 school district.

8 (1) This subdivision does not require the school district within
9 which the parents or guardians of a pupil are employed to admit
10 the pupil to its schools. Districts may not, however, refuse to admit
11 pupils under this subdivision on the basis, except as expressly
12 provided in this subdivision, of race, ethnicity, sex, parental
13 income, scholastic achievement, or any other arbitrary
14 consideration.

15 (2) The school district in which the residency of either the
16 parents or guardians of the pupil is established, or the school
17 district to which the pupil is to be transferred under this
18 subdivision, may prohibit the transfer of the pupil under this
19 subdivision if the governing board of the district determines that
20 the transfer would negatively impact the court-ordered or
21 voluntary desegregation plan of the district.

22 (3) The school district to which the pupil is to be transferred
23 under this subdivision may prohibit the transfer of the pupil if the
24 district determines that the additional cost of educating the pupil
25 would exceed the amount of additional state aid received as a result
26 of the transfer.

27 (4) The governing board of a school district that prohibits the
28 transfer of a pupil pursuant to paragraph (1), (2), or (3) shall
29 identify, and communicate in writing to the parents or guardians
30 of the pupil, the specific reasons for that determination and shall
31 ensure that the determination, and the specific reasons therefor, are
32 accurately recorded in the minutes of the board meeting in which
33 the determination was made.

34 (5) The average daily attendance for pupils admitted pursuant
35 to this subdivision is calculated pursuant to Section 46607.

36 (6) Unless approved by the sending district, this subdivision
37 does not authorize a net transfer of pupils out of any given district,
38 calculated as the difference between the number of pupils exiting
39 the district and the number of pupils entering the district, in any
40 fiscal year in excess of the following amounts:

1 (A) For any district with an average daily attendance for that
2 fiscal year of less than 501, 5 percent of the average daily
3 attendance of the district.

4 (B) For any district with an average daily attendance for that
5 fiscal year of 501 or more, but less than 2,501, 3 percent of the
6 average daily attendance of the district or 25 pupils, whichever
7 amount is greater.

8 (C) For any district with an average daily attendance of 2,501
9 or more, 1 percent of the average daily attendance of the district
10 or 75 pupils, whichever amount is greater.

11 (7) Once a pupil is deemed to have complied with the residency
12 requirements for school attendance pursuant to this subdivision
13 and is enrolled in a school in a school district whose boundaries
14 include the location where one or both parents of a pupil is
15 employed, or where the legal guardian of the pupil is employed,
16 the pupil does not have to reapply in the next school year to attend
17 a school within that school district and the district governing board
18 shall allow the pupil to attend school through the 12th grade in that
19 district if the parent or guardian so chooses, subject to paragraphs
20 (1) to (6), inclusive.

21 (g) This section is inoperative on and after July 1, 2009, and as
22 of January 1, 2010, is repealed, unless a later enacted statute, that
23 becomes operative on or before January 1, 2010, deletes or extends
24 the dates on which it becomes inoperative and is repealed.

25 (Amended (as amended by Stats. 1994, Ch. 1262, Sec. 3) by
26 Stats. 1997, Ch. 299, Sec. 19. Effective August 18, 1997. Repealed
27 as of July 1, 2003, by its own provisions. See later operative
28 version, as amended by Sec. 19.5 of Ch. 299.) Last Affected Bill
29 - (AB 1578)

30 SEC. 2. Section 48204 of the Education Code, as amended by
31 Section 19.5 of Chapter 299 of the Statutes of 1997, is amended
32 to read:

33 48204. Notwithstanding Section 48200, a pupil ~~shall be~~ *is*
34 deemed to have complied with the residency requirements for
35 school attendance in a school district, ~~provided if~~ he or she is:

36 (a) A pupil placed within the boundaries of that school district
37 in a regularly established licensed children's institution, or a
38 licensed foster home, or a family home pursuant to a commitment
39 or placement under Chapter 2 (commencing with Section 200) of
40 Part 1 of Division 2 of the Welfare and Institutions Code.



1 An agency placing a pupil in the home or institution shall
2 provide evidence to the school that the placement or commitment
3 is pursuant to law.

4 (b) A pupil for whom interdistrict attendance has been
5 approved pursuant to ~~the provisions of~~ Chapter 5 (commencing
6 with Section 46600) of Part 26.

7 (c) A pupil whose residence is located within the boundaries of
8 that school district and whose parent or legal guardian is relieved
9 of responsibility, control, and authority through emancipation.

10 (d) A pupil who lives in the home of a caregiving adult that is
11 located within the boundaries of that school district. Execution of
12 an affidavit under penalty of perjury pursuant to Part 1.5
13 (commencing with Section 6550) of Division 11 of the Family
14 Code by the caregiving adult ~~shall be~~ *is* a sufficient basis for a
15 determination that the pupil lives in the caregiver's home, unless
16 the school district determines from actual facts that the pupil is not
17 living in the caregiver's home.

18 (e) A pupil residing in a state hospital located within the
19 boundaries of that school district.

20 (f) This section ~~shall become~~ *is* operative on ~~July~~ *January* 1,
21 ~~2003~~ *2010*.

22 SEC. 3. Notwithstanding Section 17610 of the Government
23 Code, if the Commission on State Mandates determines that this
24 act contains costs mandated by the state, reimbursement to local
25 agencies and school districts for those costs shall be made pursuant
26 to Part 7 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the claim for
28 reimbursement does not exceed one million dollars (\$1,000,000),
29 reimbursement shall be made from the State Mandates Claims
30 Fund.

31 SEC. 4. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety
33 within the meaning of Article IV of the Constitution and shall go
34 into immediate effect. The facts constituting the necessity are:

35 In order to maintain the status of existing law governing school
36 district attendance, it is necessary that this act take effect
37 immediately.